

Assembly Bill No. 8

CHAPTER 6

An act to amend Section 11011 of the Government Code, to add Section 43018.2 to the Health and Safety Code, to add and repeal Sections 21080.41 and 21080.42 of the Public Resources Code, and to add Section 130240.5 to the Public Utilities Code, relating to state government.

[Approved by Governor February 20, 2009. Filed with
Secretary of State February 20, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 8, Nestande. State government.

(1) The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA generally requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA also provides some exemptions from its requirements for specified projects.

Existing law authorizes the Department of General Services to dispose of real property that the Legislature has declared surplus.

This bill would exempt the sale of surplus state real property made on an "as is" basis from designated provisions of CEQA. The bill would also exempt from those provisions of CEQA the execution of the purchase and sale agreement or the exchange agreement for surplus state real property if the disposition is not made on an "as is" basis and the close of escrow is contingent on a specified requirement or compliance with CEQA.

This bill would exempt specified transportation projects from CEQA unless, on or after February 1, 2009, the lead agency changes the scope of those projects from the manner in which those projects are described in the bill. Because a lead agency would have to determine the applicability of the exemption and to take certain specified action upon a determination of exemption, the bill would impose a state-mandated local program.

The bill also would create an ad hoc critical infrastructure permit review panel, that would be in effect until January 1, 2011, to convene those permitting agencies, as defined, with jurisdiction over specified transportation projects to coordinate actions on permits, to help reduce or eliminate unnecessary conflict, delay, duplication, overlap, or paperwork associated with the issuance of multiple permits, and to assist in ensuring

that permitting agencies and the public have the information necessary to deem permit applications complete and to act upon permits at the earliest feasible date. The bill would require a permitting agency for one of those transportation projects to act on a permit within 30 days of the application being deemed complete. If the permitting agency does not act on a permit during that time, the failure to act would be deemed approval of the permit application for the transportation project. The bill would require permitting agencies to act upon a permit for the specified transportation projects in a shorter period of time, if feasible. The bill would authorize its time limits to be extended upon mutual written agreement of the lead agency and a permitting agency.

(2) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution. Existing law requires the state board to adopt and implement motor vehicle emission standards, in-use performance standards, and motor vehicle fuel specifications for the control of air contaminants, including standards for off-road and nonvehicle engine categories.

This bill would require the state board to amend specified regulations relating to the emission restrictions of off-road diesel vehicles, as specified.

(3) Existing law establishes the Orange County Transportation Authority.

This bill would authorize the Orange County Transportation Authority to acquire rights-of-way from willing sellers for specified transportation projects.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 11011 of the Government Code is amended to read:

11011. (a) On or before December 31 of each year, each state agency shall make a review of all proprietary state lands, other than tax-deeded land, land held for highway purposes, lands under the jurisdiction of the State Lands Commission, land that has escheated to the state or that has been distributed to the state by court decree in estates of deceased persons, and lands under the jurisdiction of the State Coastal Conservancy, over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. These lands shall include, but not be limited to, the following:

(1) Land not currently being utilized, or currently being underutilized, by the state agency for any existing or ongoing state program.

(2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.

(3) Land not identified by the state agency within its master plans for facility development.

(b) Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director of that department, for sale or disposition under this section or as may be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of this code and Section 31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies that are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state that involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to the authorization, upon any terms and conditions and subject to any reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) Except as otherwise specified by law, the net proceeds received from any real property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, established pursuant

to subdivision (f) of Section 20 of Article XVI of the California Constitution, until the time that the bonds issued pursuant to the Economic Recovery Bond Act (Title 18 (commencing with Section 99050)), approved by the voters at the March 2, 2004, statewide primary election, are retired. Thereafter, the net proceeds received pursuant to this section shall be deposited in the Special Fund for Economic Uncertainties.

For purposes of this section, net proceeds shall be defined as proceeds less any outstanding loans from the General Fund, or outstanding reimbursements due to the Property Acquisition Law Money Account for costs incurred prior to June 30, 2005, related to the management of the state's real property assets, including, but not limited to, surplus property identification, legal research, feasibility statistics, activities associated with land use, and due diligence.

(h) The Director of Finance may approve loans from the General Fund to the Property Acquisition Law Money Account, which is hereby created in the State Treasury, for the purposes of supporting the management of the state's real property assets.

(i) Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be deposited in the Property Acquisition Law Money Account and shall be available for expenditure by the Department of General Services upon appropriation by the Legislature.

(j) Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

(k) (1) The disposition of a parcel of surplus state real property, pursuant to Section 11011.1, made on an "as is" basis shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code. Upon title to the parcel vesting in the purchaser or transferee of the property, the purchaser or transferee shall be subject to any local governmental land use entitlement approval requirements and to Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

(2) If the disposition of a parcel of surplus state real property, pursuant to Section 11011.1, is not made on an "as is" basis and close of escrow is contingent on the satisfaction of a local governmental land use entitlement approval requirement or compliance by the local government with Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code, the execution of the purchase and sale agreement or of the exchange agreement by all parties to the agreement shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

(3) For the purposes of this subdivision, "disposition" means the sale, exchange, sale combined with an exchange, or transfer of a parcel of surplus state property.

SEC. 2. Section 43018.2 is added to the Health and Safety Code, to read:
43018.2. (a) The state board shall amend Sections 2449.1 and 2449.2 of Title 13 of the California Code of Regulations to do both of the following:

(1) Modify the nitrogen oxides (NO_x) and particulate matter (PM) best available control technology requirements to allow a fleet to achieve its cumulative turnover and retrofit requirements for the years 2011 to 2013, inclusive, by completing 20 percent of its cumulative turnover and retrofit obligations in 2011, an additional 20 percent in 2012, and the balance in 2013.

(2) (A) Modify the nitrogen oxides (NO_x) and particulate matter (PM) credit provisions to reflect vehicle retirements that reduce total fleet horsepower between March 1, 2006, and March 1, 2010, and reduced activity between July 1, 2007, and March 1, 2010.

(B) “Reduced activity” for the purposes of this paragraph means the percentage reduction in the average annual hours of operation of the off-road fleet. That percentage shall be carried forward as a credit for nitrogen oxides (NO_x) and particulate matter (PM) to offset the annual percentage reductions required for 2010 and 2011. The credit shall not be used to meet any obligations beyond 2011.

(b) The amendment of regulations required by this section is exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 3. Section 21080.41 is added to the Public Resources Code, to read:

21080.41. (a) As used in this section, the following terms have the following meanings:

(1) “Permitting agency” means any of the following agencies:

(A) The Department of Fish and Game.

(B) The Department of Toxic Substances Control.

(C) A California regional water quality control board.

(D) A Certified Unified Program Agency established pursuant to Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code.

(E) An air pollution control district or air quality management district.

(F) The California Coastal Commission.

(G) A local agency with a certified local coastal program.

(H) The Public Utilities Commission.

(2) “Transportation project” means any of the following projects:

(A) State Route 99 median widening, adding one mixed flow lane in each direction, from State Route 120 west to 0.4 miles north of Arch Road, in Manteca in San Joaquin County.

(B) State Route 12 pavement rehabilitation and shoulder widening in San Joaquin County on Bouldin Island.

(C) U.S. Highway 101 pavement rehabilitation and shoulder widening in San Luis Obispo County.

(D) U.S. Highway 101 Doyle Drive reconstruction in the City and County of San Francisco.

(E) Palm Avenue grade separation in San Bernardino County.

(F) State Route 57 northbound widening, from Katella Avenue to Lincoln Avenue, in Orange County.

(G) Addition of auxiliary westbound lane to State Route 91, from Interstate 5 to State Route 57, in Orange County.

(H) State Route 91 widening, adding one mixed flow lane in each direction, from State Route 55 to Weir Canyon Road, in Orange County.

(I) Construction of northbound and southbound high-occupancy vehicle lanes on Interstate 805 from Interstate 5 to Carroll Canyon Road, including the construction of north-facing direct access ramps in San Diego County.

(J) The Sacramento Intermodal Track Relocation Project as specified in the approved Railyards Specific Plan, located in Sacramento County.

(b) (1) There is hereby created an ad hoc critical infrastructure permit review panel consisting of the following officials:

(A) The Secretary of Business, Transportation and Housing.

(B) The Secretary for Environmental Protection.

(C) The Secretary of the Natural Resources Agency.

(2) The ad hoc critical infrastructure permit review panel shall convene, in a duly noticed public hearing, those permitting agencies with jurisdiction over a transportation project to coordinate actions on permits, to help reduce or eliminate unnecessary conflict, delay, duplication, overlap, or paperwork associated with issuance of multiple permits, and to assist in ensuring that permitting agencies and the public have the information necessary to deem permit applications complete and to act upon permits at the earliest feasible date.

(c) (1) A permitting agency for a transportation project, within 15 days of receiving an application for a permit from the Department of Transportation, shall deem the application complete or request additional information necessary to deem the application complete. The Department of Transportation shall provide to the permitting agency the requested additional information. Within 15 days of receiving the application, if the permitting agency does not either deem the application complete or request additional information, the application is deemed complete.

(2) A permitting agency for a transportation project shall act on a permit for a transportation project within 30 days of an application being deemed completed pursuant to paragraph (1).

(d) If a permitting agency fails to act on a permit for a transportation project within the 30 days required pursuant to paragraph (2) of subdivision (c), the failure to act shall be deemed approval of the permit application for the project. However, the permitting agency shall provide public notice when the project is approved pursuant to this subdivision, in the same form and manner as it would otherwise provide that notice under existing law.

(e) The time limits specified in this section are maximum time limits for acting upon a transportation project. All permitting agencies, where feasible, shall act upon a permit for a transportation project in a shorter period of time.

(f) The time limits specified in this section may be extended upon mutual written agreement of the lead agency and a permitting agency.

(g) The time limits specified in this section shall not apply if federal statutes, regulations, or delegation agreements establish time schedules that differ from those time limits, and failure to comply with federal time limits could lead to further delays of a transportation project.

(h) Except as otherwise provided by this section, this section does not affect the requirements, duties, or authority of a permitting agency established by statute or regulation.

(i) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 4. Section 21080.42 is added to the Public Resources Code, to read:

21080.42. (a) The following transportation projects are exempt from this division:

(1) U.S. Highway 101 interchange modification, adding southbound auxiliary lane and southbound mixed flow lane, from Interstate 280 to Yerba Buena Road, in Santa Clara County.

(2) Construct north and southbound high-occupancy vehicle lanes on I-805 from I-5 to Carroll Canyon Road, including construction of north-facing direct access ramps in San Diego County.

(3) State Route 99, Los Molinas rehabilitation and traffic calming, from Orange Street to Tehama Vine Road, in Tehama County.

(4) State Route 99, Island Park widening project, adding one mixed flow lane in each direction, from Ashlan Avenue to Grantlund Avenue, in Fresno County.

(5) State Route 99 median widening, adding one mixed flow lane in each direction, from State Route 120 west to 0.4 miles north of Arch Road, in Manteca in San Joaquin County.

(6) State Route 12 pavement rehabilitation and shoulder widening in San Joaquin County on Bouldin Island.

(7) State Route 91 widening, adding one mixed flow lane in each direction, from State Route 55 to Weir Canyon Road in Orange County.

(8) U.S. Highway 101 pavement rehabilitation and shoulder widening in San Luis Obispo County.

(b) An exemption provided pursuant to subdivision (a) shall not apply to a transportation project if, on or after February 1, 2009, a lead agency changes the scope of that project from the manner in which the project is described in subdivision (a).

SEC. 5. Section 130240.5 is added to the Public Utilities Code, to read:

130240.5. Notwithstanding any other provision of law, the Orange County Transportation Authority may acquire rights-of-way from willing sellers for the following projects:

(a) Addition of auxiliary westbound lane to State Route 91, from Interstate 5 to State Route 57, in Orange County.

(b) State Route 57 northbound widening, from Katella Avenue to Lincoln Avenue, in Orange County.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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